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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-193787
Request for

DATE: March 31, 1980

MATTER OF: Temporary Lodging Allowance]

DIGEST: Where a member of the uniformed services lives with his dependents in the vicinity of his duty station outside the United States and the duty station is reclassified from nonrestricted to restricted thereby requiring the dependents to be relocated to a designated place outside the United States or in Hawaii or Alaska, the Joint Travel Regulations may be amended to provide the member a temporary lodging allowance for his dependents at the new designated location. To the extent this conflicts with 50 Comp. Gen. 83, that decision will no longer be followed.

The issue is whether in our decision, Station Housing and Cost-of-Living Allowances (Station Housing), B-193787, February 5, 1979, we intended to allow for the payment of a temporary lodging allowance (TLA) to a member for his dependents when the dependents, who are residing in the vicinity of a member's duty station, are relocated incident to the member's duty station being declared a restricted area. For the following reasons TLA may be paid in the above circumstances.

The issue was raised by letter of March 22, 1979, from the Assistant Secretary of the Navy (Manpower, Reserve Affairs and Logistics).

In our decision Station Housing, we were asked to decide the propriety of amending the Joint Travel Regulations (JTR) to provide for the payment of station housing and cost-of-living allowances to members for their dependents who were relocated under 37 U.S.C. 406(h)(1976) to a designated place outside the United States or in Hawaii or Alaska incident to the reclassification of the members' duty station from an unrestricted area to a restricted area. There we stated that in the described circumstances appropriate allowances under 37 U.S.C. 405 (1976)

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may be paid. Since TLA, as well as overseas housing and cost-of-living allowances are paid under 37 U.S.C. 405, the question is whether the phrase "appropriate allowances under 37 U.S.C. 405" includes the payment of TLA.

Section 405 of title 37, United States Code (1976), the statute authorizing station allowances, is a broadly written statute which provides for increased cost-of-living allowances, as authorized by the Secretaries concerned, incident to a duty assignment outside the United States. Station allowances prescribed under 37 U.S.C. 405 include: (1) housing and cost-of-living allowances, (2) interim housing allowances, and (3) TLA. See Lieutenant Colonel Charles D. Robinson, 56 Comp. Gen. 525, 526 (1977) and 1 JTR para. M 4300-4.

The purpose of TLA is to partially reimburse a member for the more than normal expenses incurred during occupancy of hotels or hotel-like accommodations and expenses of meals obtained as a direct result of use of temporary lodgings which do not have facilities for preparing and consuming meals. 1 JTR para. M 4303-1. Temporary lodging allowances are payable when a member, his dependents, or both are required to and do occupy hotel or hotel-like accommodations at personal expense. 1 JTR para. M 4303-2a.

In 50 Comp. Gen. 83 (1970) we were asked to decide whether the Joint Travel Regulations could be amended to authorize TLA in a situation similar to the one decided in Station Housing. In that decision, however, the dependents were authorized advance return to the United States under 37 U.S.C. 406(e) and (h). We have often stated that a temporary lodging allowance is a permanent station allowance, not a transportation allowance and therefore is payable only as a consequence of change of permanent station orders. See: 49 Comp. Gen. 299 (1969). Relying upon this premise in 50 Comp. Gen. 83, we disallowed the payment of TLA since 37 U.S.C. 406(e) and (h) only provide for the payment of transportation allowances and nothing else.

As is stated above, however, in Station Housing, we held that a member whose dependents were relocated under 37 U.S.C. 406(h) would be entitled to receive allowances

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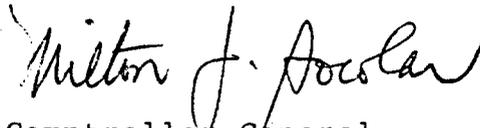
under 37 U.S.C. 405. Thus, notwithstanding our decision in 50 Comp. Gen. 83, we extended the payment of station allowances to people who are relocated under 37 U.S.C. 406(h). In reaching our decision in Station Housing, we recognized that whenever a duty station is reclassified and dependents are relocated to a designated location away from the duty station the member incurs the same expenses for his dependents as if he and his dependents moved to a new duty station incident to a permanent change of station. Since the member incurs the same expenses as if he and his dependents moved to a new duty station incident to a permanent change of station the member may be authorized the same station allowances. Following that reasoning, since TLA is a station allowance and since we have extended other station allowances to movements ordered under 37 U.S.C. 406(h), it appears TLA could also be authorized in such circumstances.

Moreover, although generally in the past we have held that TLA is payable only as a consequence of a permanent change of station, it is also payable in other circumstances. This includes when a member, for reasons beyond his control, must vacate permanent quarters in the vicinity of his permanent duty station and use commercial establishments and accommodations while seeking other permanent quarters or pending reoccupancy of the permanent quarters formerly occupied. 1 JTR M 4303-1, item 2. See: Sergeant Herman Mitchell, Jr., 56 Comp. Gen. 1440 (1976).

In consideration of the above it is now our view that 37 U.S.C. 405 is broad enough to support a carefully drawn regulation which would provide for the payment of TLA where the member's duty station does not change but is reclassified from a nonrestricted area to a restricted one. Accordingly, the regulations may be amended to authorize TLA when dependents are living with the member in the vicinity of his duty station and are relocated to a designated place outside the United States or in Hawaii or Alaska incident to a reclassification of the member's duty station.

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To the extent this conflicts with 50 Comp. Gen. 83,
that decision will no longer be followed.

A handwritten signature in cursive script, reading "Milton J. Fowler".

For The Comptroller General
of the United States